

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

FIRST APPEAL NO. 51 OF 1991

ALONG WITH

CROSS OBJECTION (ST) NO. 9783 OF 1991

The State of Maharashtra ...Appellant.

Vs.

Pandharinath Banu Mhatre ...Respondent.

Mrs. G.P.Mulekar, AGP for the State.

Mr. S.M.Kamble for the respondent.

CORAM : ANOOP V. MOHTA, J.

DATED : 28th September, 2007

ORAL JUDGMENT:-

1. The State has challenged the grant of compensation for the land at the rate of Rs.15/- per Sq. meter.

2. The land has been acquired by the State for New Bombay project under Notification dated 03/02/1970. The land is situated near to Bombay-Pune National High-way and near to the Panvel town. The water and Electricity facility is also available in this land. The Panvel and Jawahar Industrial Estate are also nearby to the land. The land is situated in Panvel extended limit. Therefore, this land has got Non-agricultural potentiality.

3. This Court in **Nama Padu Hudar Vs. The State of Maharashtra, 1993 (3) Bombay Cases Reporter 54**, after considering the similarly situated land area and locality has granted the compensation ranging from Rs.20/- to Rs.25/- per square meter based on the respective groups.

4. Further same reasoning and rate of compensation has been reiterated in the **First Appeal No. 757 of 2003 dated 31st March, 2004 by the Division Bench of Bomaby High Court** and considering the groups, the compensation ranging from rate of Rs.15/- to Rs.25/- per square meter has been granted.

5. In view of the clear decision, in so far as the State appeal is concerned the challenge to the grant of Rs.15/- per square meter is dismissed.

6. The respondent, original claimant in cross-objection based on the same facts and circumstances has strongly relied on the judgments referred above and contended that the land falls within group-1 and therefore, is entitled and even otherwise as claimed Rs.25/- per square meter should

be granted. After going through the record and the land is situated near the Bombay-Pune High-way, I am inclined to consider the case of the respondent-appellant to grant the compensation at the rate of Rs.17/- as granted in above judgments.

7. Resultantly, the appeal filed by the State is dismissed.

8. The cross-objection, appeal filed by the respondent is allowed to the extent of, rate of compensation would be Rs.17/- per square meter instead of Rs.15/-.

9. So far as the interest part is concerned, clause 4 of the above, the rate of interest would be calculated. The rate of 9% p.a. in the first year and for the subsequent year at the rate of 15% p.a.. In the result, the petitioner-appellant (Original-claimant) is entitled for the rate of interest as per provisions of Section 28 of the Land Acquisition Act.

10. The award be modified, accordingly.

11. The appeals are disposed of accordingly.

(ANOOB V. MOHTA, J.)